

10/696,148

Applicant's Declaration



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/696,148
Applicant : Eng-Keong Lee
Filed : October 29, 2003
Art Unit : 2151
Examiner : John B. Walsh

Conf. No. : 5487
Docket No. : IT-03-006

Title : ENDPOINT STATUS
NOTIFICATION SYSTEM

APPLICANT'S DECLARATION UNDER 37 C.F.R. §1.131

Mail Stop *Amendment*
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Eng-Keong Lee, declare as follows:

1. This declaration is to establish priority of invention in this application in the United States, at a date prior to April 2, 2003, which is the effective filing date of U.S. Patent Publication No. 2004/0196963 A1 to Appelman et al., the primary reference cited in the Office Action of October 18, 2006 and March 7, 2007.

2. This declaration is to establish diligence from a date just prior to the effective date of the Appelman reference to the date of Applicant's reduction to practice. The Appelman reference was filed December 30, 2003 and claims priority under 35 U.S.C. §119(e) to provisional application no. 60/459,273 filed on April 2, 2003. Assuming the effective date of Appelman is April 2, 2003, Applicant must show diligence from just prior to April 2, 2003 to late July 2003,

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when Applicant's product was generally available. Any lapse of time between reduction to practice and the filing of an application thereon is not relevant to the declaration under 37 CFR 1.131 (MPEP 715.07a).

3. I am the sole inventor of the subject matter described and claimed in United States Patent Application Serial No. 10/696,148, filed October 2, 2003, entitled ENDPOINT STATUS NOTIFICATION SYSTEM, which subject matter is disclosed and claimed in the above-referenced patent application.

4. To establish diligence, the following documents are attached as evidence of fact:

Exhibit W: "Project Status Report" (dated June 10, 2003);

Exhibit X: "Beta Solicitation Package" (dated May 16, 2003);

Exhibit Y: "Beta Completion Notice – Unified Communicator v2.0" (dated July 30, 2003); and

Exhibit Z: "Inter-Tel Releases Unified Communicator™ v2.0" (dated July 31, 2003).

5. The documents included as Exhibits detail a project timeline, including Alpha and Beta testing, for project "Talon." The Talon project was eventually incorporated into Inter-Tel's then-existing Unified Communicator® system at the release of Unified Communicator version 2.0 on July 31, 2003. Talon includes functionality that resulted from my research, programming, and engineering to create an alert system to notify the user when a reportable event has occurred.

6. Exhibits W, X and Y are prepared by Mr. Frank Hardaway. Mr. Hardaway was the Project Manager for Talon project and it was his responsibility to keep the project timeline updated, to disseminate communication about the project to other Inter-Tel personnel, and to organize the Beta test sites. I was an engineer assigned to the Talon project and therefore, it was customary for me to

periodically report the status of my inventive projects to Mr. Hardaway. Exhibit Z was prepared by Inter-Tel Marketing Department.

7. Exhibit W is an internal "Project Status Report" for the Talon project (the Unified Communicator® v.2.0 code name) dated June 10, 2003 and prepared by F. Hardaway. The Report shows a Baseline Schedule for Alpha, Beta and GA (General Availability) of the Talon project. The illustrated timeline shows the *actual* Alpha start date as March 24, 2003 and Beta start date as May 19, 2003. From the timeline, Beta was predicted to be complete by July 21, 2003 and GA to immediately follow. More importantly, the Report establishes Applicant's diligence from just prior to April 2003 (the effective date of Appelman) to late July 2003 (Applicant's reduction to practice of the Talon project).

8. Exhibit X is a copy of the "Beta Solicitation Package" for the Talon project (Unified Communicator v2.0) dated May 16, 2003 and prepared by Frank Hardaway. The Package represents Inter-Tel's invitation to trusted companies to participate in the Beta program for Talon. Approximately eight companies participated in this Beta program.

9. Exhibit Y is a copy of a distribution memo from Frank Hardaway entitled "Beta Completion Notice - Unified Communicator v2.0" dated July 30, 2003. The memo announces that Project Management and Engineering have completed their evaluations of Unified Communicator v2.0 and now consider the product ready for general availability status. Page 4 of the memo confirms that the product will be available for shipment on July 30, 2003 and a product release announcement will be sent out July 31, 2003.

10. Exhibit Z is a copy of a News Release entitled "Inter-Tel Releases Unified Communicator™ v2.0" dated July 31, 2003. As previously stated, I am the sole inventor of United States Patent Application Serial No. 10/696,148, filed October 2, 2003, entitled ENDPOINT STATUS NOTIFICATION SYSTEM. The

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inventive subject matter disclosed and claimed in the '148 application is a feature of the Unified Communicator v2.0 product and was first released for GA on July 31, 2003. Also as previously stated, UC v2.0 was code-named "Talon" prior to release.

11. This Declaration is timely filed prior to final rejection.

12. I hereby declare that all statements made herein are of my own knowledge, are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Dated: _____

6/4/2007



Eng-Keong Lee